

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

**LEQUITA R. WHITFIELD, *on behalf of
herself and all others similarly situated,***

Plaintiff,

v.

SELENE FINANCE LP,

Defendant.

**CIVIL ACTION NO.
5:24-cv-00153-TES**

ORDER DENYING MOTION TO DISMISS AS MOOT

Before Plaintiff Lequita Whitfield filed her Amended Complaint [Doc. 11],

Defendant Selene Finance LP filed a Motion to Dismiss [Doc. 4] the original Complaint [Doc. 1].

Under black-letter federal law, “an amended complaint supersedes the initial complaint and becomes the operative pleading in the case.” *Lowery v. Ala. Power Co.*, 483 F.3d 1184, 1219 (11th Cir. 2007) (citations omitted). This means that “the original pleading is abandoned by the amendment, and [it] is no longer a part of the pleader’s averments against h[er] adversary.” *Dresdner Bank AG v. M/V Olympia Voyager*, 463 F.3d 1210, 1215 (11th Cir. 2006) (citation omitted); *see also Hoefling v. City of Miami*, 811 F.3d 1271, 1277 (11th Cir. 2016) (initial pleading “bec[o]me[s] a legal nullity”). Further, an original complaint would still have legal effect if “the amendment specifically refers to

or adopts the earlier pleading." *Varnes v. Local 91, Glass Bottle Blowers Ass'n*, 674 F.2d 1365, 1370 n.6 (11th Cir. 1982) (citation omitted). An amended complaint that does not incorporate the prior pleading, however, moots "the motion to dismiss the original complaint because the motion seeks to dismiss a pleading that has been superseded." *Wimberly v. Broome*, No. 6:15-cv-23, 2016 WL 3264346, at *1 (S.D. Ga. Mar. 29, 2016) (citing cases).

The Court has reviewed Plaintiff's Amended Complaint and found no reference to, or adoption of, any allegations set forth in its original Complaint. Therefore, Plaintiff's Amended Complaint is the sole operative pleading in this case and renders moot Defendant's pending Motion to Dismiss. Accordingly, the Court **DENIES** Defendant's Motion to Dismiss [Doc. 4] **as moot**.

SO ORDERED, this 6th day of September, 2024.

S/ Tilman E. Self, III
TILMAN E. SELF, III, JUDGE
UNITED STATES DISTRICT COURT